

7-416 Mobile Video Recorder Policy – Added October 21, 2015

The use of the Mobile Video Recorder (MVR) system provides a method to document law enforcement interaction with the public. The primary function of the MVR is to create and preserve a visual/audio record of that interaction.

7-416.01 Definitions –

- A. Audio Recording is electronic recording of conversation or other spoken words.
- B. Authorized User is an employee of the Rochester Police Department that has been trained in the use of the mobile video recorder system and granted access pursuant to this policy.
- C. Evidence.com is the online web-based digital media storage facility accessed at www.evidence.com.
- D. Evidence Transfer Manager (ETM) is a docking station that simultaneously recharges the Mobile Video Recorder and uploads all data captured from the camera's point of view during the law enforcement operator's shift to Evidence.com.
- E. Law Enforcement Operator is primarily a licensed police officer, but on occasion may be a non-sworn representative of the agency who would be authorized and assigned to operate MVR equipment.
- F. Mobile Video Recorder (MVR) refers to any system that captures audio and video signals that is worn individually by officers and that includes at a minimum a camera, microphone, recorder and monitor.
- G. MVR Technician is a person certified or trained in the operational use of MVRs, duplicating methods, storage and retrieval methods and procedures, and who possess a working knowledge of video forensics and evidentiary procedures.
- H. System Administrator is typically the Staff Services Lieutenant or Records Unit Supervisor, or their designee, who assigns, tracks and maintains MVR equipment, oversees needed repairs or replacement equipment through the vendor, controls user rights and access, and acts as a liaison with the vendor.
- I. Video Recording is the electronic recording of visual images with or without an audio component.

7-416.02 Mobile Video Operational Objectives

The MVR system will be issued to police officers for use when interacting with the public in an investigatory and/or enforcement capacity. Recordings, once captured, are protected through multiple layers of encryption. Although a recording may be copied, edited and/or redacted, the original recording will continue to exist in its original form.

7-416.03 Mobile Video Recorder Operating Procedures

Law enforcement operators shall receive mobile video training prior to utilizing the MVR system.

Inspection and general maintenance of Mobile Video Recorder equipment shall be the responsibility of the law enforcement operator assigned to the equipment. MVR equipment shall be operated in accordance with the manufacturer's recommended guidelines and department training and policies.

Prior to beginning each shift, the assigned law enforcement operator shall perform an inspection to ensure that the Mobile Video Recorder is performing in accordance with the manufacturer's recommendations. If problems are encountered with any component of the system, the MVR equipment will not be used.

Malfunctions, damage, loss or theft of Mobile Video Recorder equipment shall be reported to the law enforcement operator's immediate supervisor prior to placing the unit into service, or as soon as reasonably possible, but in no case later than the end of that employee's shift. An Event Report shall be filed in the case of damaged or stolen property. The Staff Services Unit shall be notified in writing of the suspected cause of equipment failure or recommendations for corrective action as required by SOP 4-202.

At the end of their shift, law enforcement operators shall place the MVR device into any open slot on the Evidence Transfer Manager (docking station). This will allow the data to be transferred from the MVR device through the docking station to Evidence.com. The data is considered impounded at this point and the MVR device will be cleared of existing data.

7-416.04 Use of Mobile Video Recorders

Activation:

The MVR system should be activated when an officer is interacting with the public in an investigative and/or enforcement capacity. The MVR system should only be activated when it can be done without compromising the safety of the public and/or the officer.

Undercover officers are not required to utilize the MVR system if doing so would compromise their safety and/or effectiveness of their assignment.

In some circumstances it is not possible to capture images of an interaction due to environmental conditions or the location of the camera. The MVR, however, should still be activated in order to capture the audio portion of the incident whenever practical.

When contacting a victim or witness for a formal statement, a law enforcement operator should advise that the statement is being recorded. If the victim or witness requests that the MVR be de-activated, the officer may do so if he/she reasonably believes recording will inhibit a victim or witness from giving a statement.

Suspect statements should be recorded whenever possible.

Officers will document the recording of formal statements in a narrative report.

Deactivation:

The MVR system should be deactivated when the law enforcement operator is no longer interacting with members of the public. The law enforcement operator should note their intent to deactivate the system either verbally on the MVR or in a written notation.

Law enforcement operators may mute or deactivate the MVR while deliberating with other law enforcement staff and not otherwise interacting with members of the public.

Law enforcement operators shall not intentionally block the MVR's audio or visual recording functionality to defeat the purposes of this policy or use other electronic devices or other means to intentionally interfere with the capability of the Mobile Video Recorder system.

When a law enforcement operator fails to record an interaction that is required to be recorded under this policy, or captures only a part of the interaction, the operator must document the reasons a recording was not made.

7-416.05 Prohibited Mobile Video Recordings

Law enforcement operators will respect the dignity of others and avoid recording in sensitive and/or potentially embarrassing situations when it is not necessary for legitimate investigative and/or enforcement purposes.

Law enforcement operators should not record persons being provided medical care unless there is a reason to believe the recording would have evidentiary value. When responding to a mental health/medical crisis, MVR's shall be activated as necessary to document any use of force and the basis for it, and any other information having evidentiary value, but should not be activated when doing so would serve only to record symptoms or behaviors believed to be attributable to the mental/medical health crisis.

Likewise, law enforcement operators should not record persons in hospitals, mental health facilities, juvenile detention facilities, chemical dependency or detox facilities, or other places of patient care when it is not necessary for legitimate investigative and/or enforcement purposes.

Law enforcement operators will avoid recording individuals exercising constitutionally protected rights unless circumstances otherwise necessitate recording for legitimate investigative and/or enforcement purposes.

The Mobile Video Recorder shall not be used to record non-work related activity.

The Mobile Video Recorder will not be intentionally activated to record conversations of fellow employees without their knowledge during routine, non-enforcement related activities.

71416.07 Access to Mobile Video Recordings

Generally:

Access to digital recordings shall be granted only to authorized users pursuant to this policy. It is the responsibility of authorized users to keep their user name and password confidential. Accessing, copying, or releasing any recordings for other than legitimate law enforcement purposes is strictly prohibited, except as required by law.

Mobile video recordings will be accessed and copied from Evidence.com using department-approved equipment only for legitimate law enforcement purposes.

Mobile video recordings can only be erased by the MVR technician or System Administrator with authorization from the Chief of Police or a Division Commander. Any time a video is redacted for any purposes, the original of the un-redacted video shall also be kept.

Supervisors will monitor the use of the mobile video recorder system for compliance with this policy. Unauthorized access or disclosure of mobile video data may constitute misconduct and result in discipline and/or criminal penalties pursuant to Minnesota Statute **13.09**.

Public Access:

A public records request for the release of digital media will be processed as required by the Minnesota Government Data Practices Act or other applicable law

Law enforcement operators may display portions of recordings to members of the public as necessary for investigative purposes as allowed by Minnesota Statute 13.82, subd.15.

Employee Access:

In order to ensure reports and testimony are accurate and complete, access to mobile video recordings will be provided to law enforcement operators when required for legitimate law enforcement purposes. An exception will be made in cases that result in the use or attempted use of deadly force by an officer or that result in substantial or great bodily harm to a member of the public. In those cases, all mobile video recordings will be preserved as evidence for investigation by another agency per RPD policy **2-107** and/or **5-313**.

Rochester Police Department staff shall not access recordings preserved as evidence under these circumstances without authorization from the agency responsible for the investigation. An exception will be made if a recording is reasonably believed to contain information relevant to an immediate threat to public safety and a delay in accessing that information would compromise the safety of officers or the public.

A law enforcement operator's supervisor is responsible for ensuring that a mobile video recorder that may reasonably contain evidence of the use or attempted use of deadly force by an officer or force that resulted in substantial or great bodily harm to a member of the public is immediately secured.

Aside from these evidentiary recordings, a supervisor or administrative staff member may review other mobile video recordings for the purpose of training, critique, early intervention inquiries, civil claims, administrative inquiry, or other articulable reason.

Other Agency Access:

Non-public or private mobile video recordings may be shared with other law enforcement agencies only for legitimate law enforcement purposes. The release of data to other law enforcement agencies should be documented at the time of disclosure.

Access to Non-public or private mobile video recordings may be provided to prosecutors, courts and other criminal justice entities as provided by law.

7-416.06 Retention of Mobile Video Recordings

All digital media collected using mobile video recordings is considered a record of the Rochester Police Department and subject to the provisions of current law and/or the Minnesota Government Data Practices Act. Mobile video recordings will be labeled and stored in accordance with procedures established by Evidence.com for digital media storage.

Law enforcement operators shall not erase, alter, reuse, modify or tamper with audio-video recordings.

All recorded media will be retained in compliance with the established records retention schedule or as required by the rules of evidence, unless a specific request is made to store them for a longer period.

All MVR data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data. MVR data will be categorized according to content and retained as follows:

- A. Uncategorized - 90 Days
- B. Arrest, citation or charge - 60 Days after sentencing or the relevant statute of limitations expires
- C. Use of Force/Allegations of Misconduct –Must be maintained for six years regardless of the disposition of any criminal case
- D. Death or sexual assault investigation – Permanent

In addition, MVR data utilized for training may be retained as long as necessary to fulfill that purpose.

Recorded media that is relevant to a criminal proceeding shall be retained until its proper disposition in accordance with the law. The Records Unit and its authorized technicians are responsible for clearing of evidence items.

Evidence may be cleared when:

- A. Prosecution is complete and the applicable appeal time has lapsed.
- B. The statute of limitations has expired.
- C. The complainant has provided a written request to close their case.

When an investigator is assigned to the case, the investigator should be notified prior to final disposition of the evidence.

Nothing in this policy shall be interpreted as changing the underlying classification of data collected by the MVR systems. The classification of data collected by the MVR systems will be determined on a case by case basis. The factors that control classification include the specific facts and circumstances surrounding the data in question and applicable policies and procedures as determined by state and federal law.